

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 3:06-cr-154  
Also Case No. 3:09-cv-8

-vs-

THOMAS L. McCUALEY, District Judge Walter Herbert Rice  
Magistrate Judge Michael R. Merz

Defendant. :

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**ORDER ADOPTING REPORT AND RECOMMENDATIONS**

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The Court has reviewed the Report and Recommendations of Magistrate Judge Michael R. Merz (ECF No. 139), to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, and for good cause shown upon the Court's de novo review, hereby ADOPTS said Report and Recommendations.

Accordingly, it is hereby ORDERED that Defendant's conviction under the Armed Career Criminal Act is VACATED. The instant case will be set for re-sentencing.

October 13, 2016.



Walter Herbert Rice  
United States District Judge